

APPLICATION TO THE ZONING BOARD OF ADJUSTMENT

******* IT IS IMPORTANT THAT YOU READ EACH INSTRUCTION CAREFULLY *******

1. The applicant must have a copy of the Notice of Violation or a letter from the denying body stating the reasons for the violation must accompany this application.
2. Plot map – It is your responsibility to supply a plot map of the property in question, as close to scale as possible, showing boundaries, streets, existing and/or proposed buildings, access roads, and abutters. Unless otherwise specified, a detailed hand drawing is acceptable.
3. Public Notice/Abutters – It is your responsibility to supply the correct names and mailing addresses of all of the abutters. An abutter is any property owner whose property adjoins or is directly across a street or stream. If more than one person owns the property, you must list every owner. Owner and mailing address information is available at the Town Hall. Be sure to check the addresses at the Town Hall, as your neighbor may not necessarily receive mail at the street address for the property. All owners of your property and the mailing address must also be listed. You must also list the name(s) and address(es) of anyone who will represent you at the hearing. You must also list any surveyor, engineer, architect, or soil scientist whose stamp and signature appear in the application materials. If someone is representing you at the meeting, you shall supply a letter granting them permission to represent you. You and all other interested parties will be notified by certified mail of the time, date, and place of the hearing. Notice of the hearing will be posted in the Town Hall and Post Office and a newspaper of general circulation in the area. You will be allowed, at the public hearing, to state your reasons for requesting the hearing and those opposed or in favor will have equal opportunity to speak.
4. Fees – All necessary fees must accompany the application. If fees are not paid at the time the application is submitted, the application will not be accepted per State RSA.
5. When the application is determined to be complete, the Secretary will contact the Chairman of the Zoning Board and the Chairman will set the date for the hearing. The hearing will be held within thirty days of the receipt of the completed application. The hearing will usually be held on a Monday, at 7:00 p.m.
6. The Board of Adjustment will render its decision within thirty days of the hearing date.
7. Please note that, if your request is granted, anyone affected has the right to appeal this decision within thirty days.

**APPLICATION – ZONING BOARD OF ADJUSTMENT
TOWN OF NEWMARKET, NH**

Applicant: _____

Do not write in
this

space

Mailing Address: _____

Case # _____

Property owner: _____

Date filed _____

Mailing Address: _____

Secretary

Day telephone: _____

Location of property: _____ Tax Map _____ Lot _____ Zone _____

Description of property: _____

Proposed use or existing use affected: _____

FILL OUT SECTION 1, 2, 3, OR 4. DO NOT FILL OUT MORE THAN ONE SECTION

SECTION 1 APPEAL FROM ADMINISTRATIVE DECISION

Relating to the interpretation and enforcement of the provision of the zoning ordinance.

Decision of the Building Official to be reviewed:

Section _____ of the Newmarket Zoning Ordinance in question

SECTION 2 APPLICATION FOR SPECIAL EXCEPTION

The undersigned hereby requests a Special Exception as provided in Section _____ of the Newmarket Zoning Ordinance.

SECTION 3 APPLICATION FOR VARIANCE

The undersigned hereby requests a variance to the terms of Section _____ and asks that said terms be waived to permit _____

—

SECTION 4 APPLICATION FOR EQUITABLE WAIVER

The undersigned hereby requests an Equitable Waiver of Dimensional Requirements as provided in RSA 674:33-a of the NH Revised Statutes Annotated.

1. Does the request involve a dimensional requirement, not a use restriction () yes () no
2. Explain how the violation has existed for ten years or more with no enforcement action, including written notice, being commenced by the Town _____

—

OR

Explain how the nonconformity was discovered after the structure was substantially completed _____

—

or after a vacant lot in violation had been transferred to a bona fide purchaser _____

and how the violation was not an outcome of ignorance of the law or bad faith but resulted from a legitimate mistake _____

3. Explain how the nonconformity does not constitute a nuisance nor diminish the value or interfere with future uses of other property in the area _____

4. Explain how the cost of correction far outweighs any public benefit to be gained.

Applicant _____
Signature

Owner _____
Signature

Date _____

**Must have owner's signature or a letter or authorization indicating that the owner is aware that the applicant is bringing the application before the Zoning Board of Adjustment.

FEE SCHEDULE

1. Application fee - \$60 per application.
2. Abutters - \$3.00 per abutter, including yourself. This is to cover certified mailing fees. Notices must be sent by certified mail per State Law.
3. Newspaper Notice - \$30.00. Notice of the hearing must be published in a newspaper of general circulation per State Law.

ABUTTERS LIST

1. List the tax map, lot number, name(s) and mailing address of the property owner(s), and all abutters as shown in Town records, not more than five days prior to submittal per RSA 676:4,I(b). This may be typed on a separate sheet. Please indicate the date of preparation and sign your name on each sheet.
2. As applicable, list the name, mailing address, daytime phone number, and fax number of the Applicant's Authorized Representative and any surveyor, engineer, architect or soil scientist whose stamp and signature appear in the application materials. You must also list the property owner.
3. **Fill out two adhesive mailing labels for each entry on the list. Labels must not exceed 1" tall by 2.75" long in order to fit on the certified mail tags.**
4. The determination of abutters is the responsibility of the applicant. This list will not be reviewed for compliance with statutory requirements.

[illegible]

Date of preparation: _____

I hereby certify that all information presented on this form is, to the best of my knowledge, correct.

Signature of preparer

CHECKLIST

Please go over the list and make sure that you have included everything on it **BEFORE** submitting your application.

1. Letter of Violation/Denial - From the Administrative Officer. _____
2. Plot map – As close to scale as possible showing
 - a. boundaries _____
 - b. setbacks _____
 - c. streets _____
 - d. existing or proposed structures _____
 - e. access roads _____
 - f. abutters _____
3. List of abutters – Every owner of every property, with correct mailing address. _____
4. **Two adhesive mailing labels per abutter not to exceed 1” tall by 2.75” long.** _____
5. Section number of the ordinance involved. _____
6. Fees. _____
7. Permission note for representative, if any. _____

When the above are checked off and your application is completely filled out, you are ready to submit your application. If any one of numbers one through six are missing, we will not be able to accept your application.

VARIANCE

You will be asked to answer to these criteria at the meeting. This form is to assist you in preparing your answers ahead of time. Please submit a copy of this form with your application and you may keep a copy and read your answers directly from this sheet at the meeting, if you wish. You may, of course, elaborate on these answers at the meeting.

The local ordinance cannot limit or increase the powers of the Board to grant variances under this authority, but this power must be exercised within bounds. In several decisions from 1952 to the present, the Supreme Court has declared that each of the following criteria must be found in order for a variance to be legally granted:

CRITERION 1. The variance will not be contrary to the public interest.

CRITERION 2. Special conditions exist such that literal enforcement of the ordinance results in unnecessary hardship.

A. Applicant seeking USE variance – Simplex analysis

A-1. The zoning restriction as applied interferes with a landowner's reasonable use of the property, considering the unique setting of the property in its environment.

A-2. No fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific restriction on the property.

A-3. The variance would not injure the public or private rights of others.

B. Applicant seeking AREA variance – Boccia Analysis

B-1. An area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property.

B-2. The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance.

CRITERION 3. The variance is consistent with the spirit of the ordinance.

CRITERION 4. Substantial justice is done.

CRITERION 5. The value of surrounding properties will not be diminished.
